(3)

C.S.100/-

PAGE No...1...

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION No.:- 4923 **/ 2005.** **S.B.**

PETITIONER: -

JANARDAN PRASAD SAHU,
S/O Angad Prasad Sahu
Aged about-47 yrs.
By Post :-Up- Sarpanch,
Gram Panchayat Udhanapur
R/O Village Udhanapur,
Tahsil :- Manendragarh,
Distt. Korea-Baikunthpur(C.G.)

-: V E R S U S :-

RESPONDENTS:-

P.R. No. 4966/05
Presented by Shri Asad Siddiqui
dated 22/9/05

1. **The State of Chhattisgarh**
Through The Secretary,
Panchyat & Gramin Vikas
D.K.S. Mantralaya Bhavan,
RAIPUR, Distt.Raipur (C.G.)

2. **The Collector,**
Distt. Korea-Baikunthpur(C.G.)

3. **The Sub-Divisional Officer,**
Tahsil: -Khadgawa, Chrimiri,
Distt. Korea-Baikunthpur(C.G.)

4. **The Chief Executive Officer,**
Janpad Panchayat Khadgawa
Chrimiri,
Distt. Korea-Baikunthpur(C.G.)

5. **BANARSI PRASAD,**
S/O Jagjivan Prasad,
Aged about-45 yrs.
R/O Village:-Udhanapur,
Gram Panchayat:-Khadgawa,
Chrimiri, Distt. Korea-Baikunthpur(C.G.)

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WRIT PETITION UNDER ARTICLE 226 /227 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF DIRECTION (S) OR ORDER (S).

The above named Petitioner most respectfully begs to submit as under: -

1. **PARTICULARS OF THE PETITIONER**:-
As per mentioned above in the cause title of the petition.

2. **PARTICULARS OF THE RESPONDENTS** :-
As per mentioned above in the cause title of the petition.

(27)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ....W.P.No. 4923..... **सन् 200** 5

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

7-10-2005

Shri J.A. Lohani, counsel for the petitioner.

Shri Sandeep Dubey, Govt. Advocate for the State/respondents No.1 to 4.

Heard both the counsel.

The petitioner who is an elected Up Sarpanch of Gram Panchayat of village Udhnapur, Tehsil Manendragarh, District: Korea has preferred this writ petition questioning the legality, propriety and correctness of the order dated 18-8-2005 passed by the District Collector, Korea whereby the petitioner has been ordered to be removed from the post of Up Sarpanch as he is working in the S.E.C.L. organization which is a public undertaking of the Central Government, therefore, he is not entitled to hold office of Up Sarpanch and Panch of village Udhnapur in view of the provisions of Section 36 (1) (d) of the Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (for short 'the Adhiniyam, 1993).

Brief facts leading to filing of this writ petition are that the elections of Panch and Up Sarpanch of Gram Panchayat Udhnapur were held in the month of January, 2005. The petitioner contested for the post of Panch of Gram Panchayat Udhnapur and he was elected on 23-1-2005 and being a Sarpanch he was later on elected as Up Sarpanch of the said Gram Panchayat. A complaint was filed by respondent No.5 before the S.D.O. that the petitioner herein is already an employee in the S.E.C.L. which is a public undertaking of the Central Government, therefore, he was holding an office of profit and as such he was not qualified and entitled to contest the election. Upon this a notice was issued to the petitioner, an enquiry was conducted and the matter was sent to the Collector who also issued notice. After conducting the enquiry under the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Act the Collector reached to the conclusion that since the petitioner already working as an employee in the S.E.C.L., therefore, in view of the provisions of Section 36 (1) (d) of the Adhiniyam, 1993 the petitioner not eligible to be an office bearer of the Panchayat and accordingly, he passed the impugned order.

It has not been disputed by the petitioner herein that he is not an employee of the S.E.C.L.. Moreover, perusal of the impugned order shows that officer of the department of the Personnel vide his letter No.306 dated 10-4-2005 informed the Collector that the petitioner is working in the S.E.C.L., as such the petitioner being an employee of the S.E.C.L. is not eligible and entitled to be an office bearer of the Panchayat.

Therefore, I do not find any illegality or infirmity in the impugned order. The writ petition is, therefore, liable to be dismissed and it is accordingly dismissed. No costs.

Consequently, M.(W.)P. No.3970/2005 stands disposed of.

Sd/-
L.C. Bhadoo
Judge

Barve